

Office of Human Development Services, HHS

§ 1356.20

ALLOTMENT OF FUNDS WITH 427 INCENTIVE FUNDS TITLE IV-B CHILD WELFARE SERVICES FISCAL
YEAR 1993—Continued

| Name of State | Allotment at \$294,624,000 ¹ | Allotment at \$141,000,000 ¹ | 427 incentive funds |
|-----------------|--|--|------------------------|
| Wisconsin | 6,033,052 | 2,881,847 | 3,151,205 |
| Wyoming | 751,264 | 391,247 | 360,017 |

¹ These totals include allotments to the United States Territories. Therefore, the summation of the States' allotments will not be equivalent.

[58 FR 67937, Dec. 22, 1993, as amended at 65
FR 4087, Jan. 25, 2000]

**PART 1356—REQUIREMENTS
APPLICABLE TO TITLE IV-E**

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APPENDIX A TO PART 1356—NYTD DATA ELE-
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APPENDIX C TO PART 1356—CALCULATING SAM-
PLE SIZE FOR NYTD FOLLOW-UP POPU-
LATIONS

AUTHORITY: 42 U.S.C. 620 et seq., 42 U.S.C.
670 et seq.; 42 U.S.C. 1302.

§ 1356.10 Scope.

This part applies to State programs
for foster care maintenance payments,
adoption assistance payments, related

foster care and adoption administra-
tive and training expenditures, and the
independent living services program
under title IV-E of the Act.

[61 FR 58655, Nov. 18, 1996]

**§ 1356.20 State plan document and
submission requirements.**

(a) To be in compliance with the
State plan requirements and to be eli-
gible to receive Federal financial par-
ticipation (FFP) in the costs of foster
care maintenance payments and adop-
tion assistance under this part, a State
must have a State plan approved by
the Secretary that meets the require-
ments of this part, part 1355 and sec-
tion 471(a) of the Act. The title IV-E
State plan must be submitted to the
appropriate Regional Office, ACYF, in
a form determined by the State.

(b) Failure by a State to comply with
the requirements and standards for the
data reporting system for foster care
and adoption (§1355.40 of this chapter)
shall be considered a substantial fail-
ure by the State in complying with the
State plan for title IV-E. Penalties as
described in §1355.40(e) of this chapter
shall apply.

(c) If a State chooses to claim FFP
for voluntary foster care placements,
the State must meet the requirements
of paragraph (a) of this section and sec-
tion 102 of Pub. L. 96-272, the Adoption
Assistance and Child Welfare Act of
1980, as it amends section 472 of the
Act.

(d) The following procedures for ap-
proval of State plans and amendments
apply to the title IV-E program:

(1) The State plan consists of written
documents furnished by the State to
cover its program under part E of title
IV. After approval of the original plan

by the Commissioner, ACYF, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that ACYF may determine whether the plan continues to meet Federal requirements and policies.

(2) *Submittal.* State plans and revisions of the plans are submitted first to the State governor or his designee for review and then to the regional office, ACYF. The States are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

(3) *Review.* Staff in the regional offices are responsible for review of State plans and amendments. They also initiate discussion with the State agency on clarification of significant aspects of the plan which come to their attention in the course of this review. State plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the central office for technical assistance. Comments and suggestions, including those of consultants in specified areas, may be prepared by the central office for use by the regional staff in negotiations with the State agency.

(4) *Action.* Each Regional Administrator, ACF, has the authority to approve State plans and amendments thereto which provide for the administration of foster care maintenance payments and adoption assistance programs under section 471 of the Act. The Commissioner, ACYF, retains the authority to determine that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval. The Regional Office, ACYF, formally notifies the State agency of the actions taken on State plans or revisions.

(5) *Basis for approval.* Determinations as to whether State plans (including plan amendments and administrative practice under the plans) originally meet or continue to meet, the requirements for approval are based on relevant Federal statutes and regulations.

(6) *Prompt approval of State plans.* The determination as to whether a State plan submitted for approval conforms

to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and not later than the 45th day following the date on which the plan submittal is received in the regional office, unless the Regional Office, ACYF, has secured from the State agency a written agreement to extend that period.

(7) *Prompt approval of plan amendments.* Any amendment of an approved State plan may, at the option of the State, be considered as a submission of a new State plan. If the State requests that such amendment be so considered the determination as to its conformity with the requirements for approval shall be made promptly and not later than the 45th day following the date on which such a request is received in the regional office with respect to an amendment that has been received in such office, unless the Regional Office, ACYF, has secured from the State agency a written agreement to extend that period. In absence of request by a State that an amendment of an approved State plan shall be considered as a submission of a new State plan, the procedures under §201.6 (a) and (b) shall be applicable.

(8) *Effective date.* The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted, and with respect to expenditures for assistance under such plan, may not be earlier than the first day on which the plan is in operation on a statewide basis. The same applies with respect to plan amendments.

(e) Once the title IV-E State plan has been submitted and approved, it shall remain in effect until amendments are required. An amendment is required if there is any significant and relevant change in the information or assurances in the plan, or the organization,

policies or operations described in the plan.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0141. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

[48 FR 23115, May 23, 1983, as amended at 58 FR 67938, Dec. 22, 1993; 65 FR 4088, Jan. 25, 2000; 66 FR 58676, Nov. 23, 2001]

§ 1356.21 Foster care maintenance payments program implementation requirements.

(a) *Statutory and regulatory requirements of the Federal foster care program.* To implement the foster care maintenance payments program provisions of the title IV-E State plan and to be eligible to receive Federal financial participation (FFP) for foster care maintenance payments under this part, a State must meet the requirements of this section, 45 CFR 1356.22, 45 CFR 1356.30, and sections 472, 475(1), 475(4), 475(5) and 475(6) of the Act.

(b) *Reasonable efforts.* The State must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. In order to satisfy the "reasonable efforts" requirements of section 471(a)(15) (as implemented through section 472(a)(1) of the Act), the State must meet the requirements of paragraphs (b) and (d) of this section. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety must be the State's paramount concern.

(1) *Judicial determination of reasonable efforts to prevent a child's removal from the home.* (i) When a child is removed from his/her home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, in accordance with paragraph (b)(3) of this section,

must be made no later than 60 days from the date the child is removed from the home pursuant to paragraph (k)(1)(ii) of this section.

(ii) If the determination concerning reasonable efforts to prevent the removal is not made as specified in paragraph (b)(1)(i) of this section, the child is not eligible under the title IV-E foster care maintenance payments program for the duration of that stay in foster care.

(2) *Judicial determination of reasonable efforts to finalize a permanency plan.* (i) The State agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care in accordance with the definition at § 1355.20 of this part, and at least once every twelve months thereafter while the child is in foster care.

(ii) If such a judicial determination regarding reasonable efforts to finalize a permanency plan is not made in accordance with the schedule prescribed in paragraph (b)(2)(i) of this section, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

(3) *Circumstances in which reasonable efforts are not required to prevent a child's removal from home or to reunify the child and family.* Reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required if the State agency obtains a judicial determination that such efforts are not required because:

(i) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) A court of competent jurisdiction has determined that the parent has been convicted of: